IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2174 OF 2004

Aman Khemka ...Petitioner

Versus

HDFC Bank Ltd. & Ors ...Respondents

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Mr. T.N. Tripathi, Advocate for Petitioner

Mr. Prashant Chande i/b M/s. Pardiwala & Co. for Respondent No.1.

Mr. S.R. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 19TH OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of process issued against him in Criminal Case No.934/S/2003 which is pending in the Court of learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai. In the said case, process has been issued against the petitioner under Section 138 r.w. 141 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this

Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of five weeks from today. The learned advocate for the respondent No. 1 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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